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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 AHMED ASHOUR, et al,

4 Plaintiffs,

5 v.

19 Civ. 7081 (OTW)

6 ARIZONA BEVERAGES, USA, LLC,
7 et al,

8 Defendants.

Conference

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9 New York, N.Y.
10 February 17, 2022
3:30 p.m.

11 Before:

12 HON. ONA T. WANG,

13 U.S. Magistrate Judge

14 APPEARANCES

15 REESE, LLP

Attorneys for Plaintiffs

16 BY: CARLOS F. RAMIREZ

17 STEVENS & LEE, PC

Attorneys for Defendants

18 BY: ROBERT P. DONOVAN

JOHN VISCONI, II

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(Case called)

THE DEPUTY CLERK: Counsel, please note your appearance for the record.

MR. RAMIREZ: Carlos Ramirez for the plaintiffs.

Good afternoon, Judge.

MR. DONOVAN: Good afternoon, your Honor.

Robert Donovan on behalf of the defendants.

MR. VISCONI: Good afternoon, your Honor.

John Visconi, Stevens & Lee for the defendants.

THE COURT: All right. I have your joint-status letter. I am cautiously optimistic and hopeful that you seem to be meet and conferring, getting along well.

Let's hear a report on where you are on discovery. Mr. Ramirez, why don't you start.

MR. RAMIREZ: Thank you, your Honor. We are continuing to meet and confer. There has been a report that two additional drives have been located which are being reviewed now. And hopefully once we get that discovery, we can hopefully figure out a discovery date. I think once there's a substantial completion of discovery, hopefully your Honor will set a discovery date. We need three months we believe to sort of digest and take our position, and the schedule could just flow from there.

THE COURT: Okay. Let's hear also, plaintiffs, your affirmative discovery is done with the exception of one

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1 deposition or --

2 MR. RAMIREZ: Two, your Honor. Unfortunately the
3 night before -- literally the night before we're on the phone
4 with our client and we learned about a medical situation that
5 had the deposition proceeded, it would have been perhaps maybe
6 not a super spreader event, but a mini-spreader event
7 literally. So unfortunately, we had to cancel.

8 THE COURT: We've all had to make some adjustments
9 with that. I understand. Okay. So you still have two
10 depositions, two witnesses to produce on your side?

11 MR. RAMIREZ: Yes.

12 THE COURT: And then you're waiting on the two
13 additional drives from the defendant, but you've completed your
14 production of documents as well?

15 MR. RAMIREZ: Yes, that's correct, your Honor. With
16 these types of cases, it's usually a very limited production
17 from the plaintiffs, so we've been done with that for some time
18 now.

19 THE COURT: All right. So let's hear from defendant's
20 side. You are in the process of reviewing the two additional
21 drives?

22 MR. DONOVAN: Your Honor --

23 THE COURT: I'm sorry. It may have been a while since
24 we've been in person, but you can stay seated.

25 MR. DONOVAN: Thank you.

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1 THE COURT: Just speak into the microphone. It's much
2 easier when we all have our masks on.

3 MR. DONOVAN: Thank you, your Honor. This week we
4 received the U-drive from the client, Judge, and we anticipate
5 after doing a privilege review and such that we'll be able to
6 produce documents to plaintiffs within two-weeks time.

7 The M-drive, Judge, I do not have a report to your
8 Honor about that. That's a large drive, and I simply don't
9 have a report to you as to time wise when documents will all be
10 received and reviewed and produced.

11 THE COURT: This is the drive that might have a
12 terabyte of data on it?

13 MR. DONOVAN: Correct, your Honor.

14 THE COURT: Okay. We'll maybe put you on a joint
15 status letter schedule on understanding the status of the
16 review and the production.

17 Now I understand that there might also be an issue
18 of -- potentially whether a broader set of search terms is
19 necessary. Is that going on in parallel with the two drives or
20 are you going to revisit that after you've reviewed the two
21 drives or something else

22 MR. DONOVAN: Your Honor, Mr. Visconi will interrupt
23 me if I'm wrong, but I think, which is could very well be, the
24 U-drive results were the result -- the connectors that we
25 agreed upon resulted in the U-drive search to no results, so we

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1 ended up using individual search terms that were agreed upon.
2 And again, I don't really have a handle on the M-drive and we
3 could provide the Court with a status update as to that.

4 THE COURT: I'm sorry. Let me back it up again. You
5 got no hits when you did what with the U-drive?

6 MR. DONOVAN: There were connectors. We agreed on
7 connectors term X within item out term Y, so we ended up using
8 individual search terms and that yielded results from the
9 U-drive. That approach may or may not have to be used in the
10 M-drive. That could be a buy product in the file list. So
11 that's with regard to that.

12 And we're are meeting and conferring with opposing
13 counsel about the issue of the emails that were produced and
14 whether additional search terms or broader search terms or
15 connectors I would anticipate can be agreed upon. And I expect
16 that they will be, Judge, but it will be in the contours of
17 what particular custodians -- I certainly don't want to
18 foreclose an ability to do that. I don't want to say one way
19 or the other, but I think that there's probably grounds for
20 compromise there in some shape, way or form.

21 THE COURT: All right. Any depositions of your
22 witnesses would wait until the document discovery has been
23 produced to plaintiffs, right?

24 MR. RAMIREZ: Yes.

25 MR. DONOVAN: I think that's what we're operating

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1 under, your Honor.

2 THE COURT: Is there anything else we need to address
3 as far as status or should I just put you on a schedule for the
4 next status letter, and I do know we need to extend fact
5 discovery.

6 MR. RAMIREZ: There are no other issues for the
7 plaintiffs. I guess we would like to proceed as swiftly as
8 possible, so perhaps a shorter control date or control report
9 would be preferable for us subject to the Court's decision
10 whether that's doable.

11 THE COURT: Why don't we have you file a joint-status
12 letter on the status of discovery. Let's do four weeks from
13 tomorrow which will put us at March 18.

14 So next joint status letter March 18th, and from there
15 I guess I'd like to hear sort of the status of the review of
16 the two drives, how much longer you think it might take, your
17 meeting and conferring on the emails. And to the extent that
18 you want to give me a sense of the volume of documents we're
19 talking about with the two drives as whether it's helpful in
20 terms of numbers of hits or numbers of documents or numbers of
21 pages or numbers of megabit or terabytes, just so I know sort
22 of how much you've done, how much you might still have left to
23 do. And then hopefully from there we'll be able to get a
24 better schedule in place.

25 Is there any sense, Mr. Donovan or Mr. Visconi, on the

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1 number of your witnesses that would be being deposed or is that
2 still too up in the air right now?

3 MR. DONOVAN: I think that would be a function of what
4 the plaintiff would want. I get the sense, your Honor, we had
5 obviously a dispute about the 30(b)(6) a while ago, but using
6 that as a framework, I would anticipate there would be maybe
7 two witnesses arising out of that, and obviously subject to
8 whatever the plaintiffs -- any additional folks that they want
9 to depose.

10 THE COURT: Okay. Obviously this is all just to get a
11 sense of what we're looking at going forward.

12 Anything else we need to address at this time?

13 MR. DONOVAN: Judge, I do have one question. It's a
14 housekeeping one. There are still folks on the ECF at my prior
15 firm who are getting noticed. If I were to submit to your
16 Honor an application to remove those lawyers since they're no
17 longer attorneys of records, is that what the Court would
18 require?

19 THE COURT: Oh, I see. So you moved firms, and
20 McElroy & Deutsch is your old firm?

21 MR. DONOVAN: Correct.

22 THE COURT: The individuals who are still on the
23 docket should just file something. I don't know if that's
24 something that you would take care of with your former partners
25 to just draft something for them or what. But once you file a

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1 notice of appearance, you're attorney of record until you're
2 not.

3 MR. DONOVAN: Understood.

4 THE COURT: That usually happens when somebody leaves
5 a firm, but because you moved to a different firm. Yeah, just
6 get --

7 MR. DONOVAN: What I've seen, your Honor, is notice of
8 withdrawal from ECF notification that would have to be signed
9 by the attorney seeking withdrawal.

10 THE COURT: Right. My understanding is that this is
11 instituted by the attorney who's getting the notifications and
12 that they have to withdraw from the case. Whether you
13 essentially do that for them up to the point of them filing it
14 or some other way is not any of my business.

15 MR. DONOVAN: Thank you, your Honor.

16 THE COURT: But, yes, it would be nice if the docket
17 were cleaned up a little bit as far as attorneys. So I'll look
18 forward to seeing your letters on March 18. I will extend
19 discovery deadline, let's extend discovery to April 1st. I was
20 trying to avoid that date, but we know that date isn't going to
21 keep because of what still has to happen, but at least this
22 just keeps the docket kind of -- okay.

23 And then I don't anticipate that we would need an
24 in-person conference if things are proceeding smoothly. Okay.
25 Of course if disputes arise that you're not able to resolve

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1 among yourselves, write the joint letter and we'll try to get
2 it taken care of. Okay.

3 MR. DONOVAN: Thank you, your Honor.

4 MR. RAMIREZ: Thank you, your Honor.

5 THE COURT: Thank you. The last thing, and I might
6 have mentioned this way back when I had the initial case
7 management conference back in 2019, but I know that counsel has
8 changed around a lot, is at any time that you want, you can
9 consider if you want to consent to my jurisdiction for all
10 purposes.

11 It matters not one bit to me, certainly at this point
12 since I think you're just mainly dealing with me right now.
13 But think about whether you want to do that. It doesn't make
14 any difference right now to how the case is going to proceed.
15 I think only as you get to the close of discovery and you're
16 thinking about dispositive motions or moving to trial or
17 whether you want might to talk about a resolution, that's when
18 it might come into play --

19 MR. RAMIREZ: One question, Judge, on that point.

20 THE COURT: -- consent to my jurisdiction for all
21 purposes. What was your question?

22 MR. RAMIREZ: Would that mean that the motion to
23 dismiss, would that be transferred to you?

24 THE COURT: Yes.

25 MR. RAMIREZ: Got it. Okay. Thank you.

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1 THE COURT: Okay. All right.

2 Anything else?

3 Any other questions?

4 MR. RAMIREZ: None for the plaintiffs.

5 MR. DONOVAN: No, your Honor. Thank you.

6 THE COURT: All right. Thank you very much. We are
7 adjourned, and I'm going to request that you order a copy of
8 the transcript, share the cost.

9 (Adjourned)

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